



4030 Esplanade Way
Tallahassee, FL 32399

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Modernizing the E-rate Program)	WC Docket No. 13-184
For Schools and Libraries)	

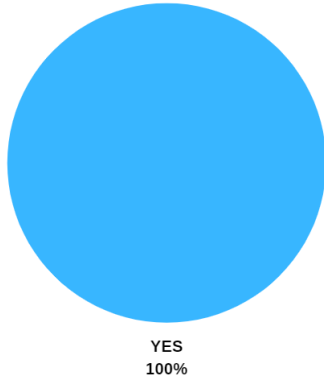
**Reply Comments of the Florida State E-rate Coordinator Team in Response
to FCC Public Notice DA 19-58**

On behalf of the schools and libraries in the State of Florida, the Florida E-rate Team (FET) respectfully submits the following reply comments in response to the Federal Communications Commission (FCC) Notice for Proposed Rulemaking¹ (NPRM). We applaud the Bureau for the willingness to open up the proceedings to the entire E-rate community and not extending the current Category Two rules. We are thankful for the opportunity to provide Florida's unique perspective related to the future of the E-rate Category Two budget.

After the release of the NPRM, FET surveyed Florida school districts, schools, and libraries to gather their feedback on the many questions posed by the Bureau. As part of these reply comments, we have provided survey data, applicant comments, and State level perspective based on our many discussions with the Florida E-rate community over the last five years.

¹ FCC Notice of Proposed Rulemaking FCC-19-58A1. <https://docs.fcc.gov/public/attachments/FCC-19-58A1.pdf>

1. **Are you in favor of the FCC permanently extending the category two budget approach and avoid reverting to the two-in-five rules for all applicants?**

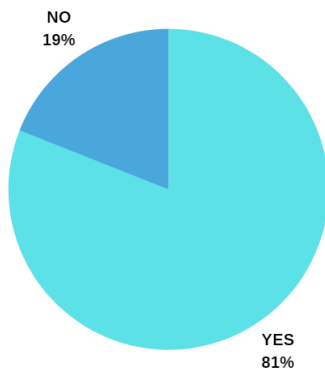


The success of the Category Two budget is undeniable. Over the first five years of the Category Two Budget approach, Florida applicants² requested \$255,904,138.75³ in funding. For this reason and many others, it's no surprise Florida applicants fully support permanently continuing the Category Two budgets and not reverting to the two-in-five rule.

2. **Are you in favor of the FCC continuing the current pre-inflation multiplier rate of \$150 per student (schools) and \$2.30/\$5 per square foot (libraries)?**

² As of FY2019, the State of Florida has an estimated Pre-K – 12 enrollment of 2,502,913 public school students, 69 school districts, 511 private schools, 64 Library and Library Systems, and 12 consortiums participating in the E-rate program. Data source: FY19 Valid File and USAC FY19 471 Detail Report.

³ Data provided via the USAC “Funding Request Status Tool” and Data Retrieval Tool for years 2015-2019



Respondents overwhelmingly agreed that the current pre-inflation rate should continue. However, when asked to provide further thoughts/details, respondents believed that an increase to the multiplier rate would provide more flexibility and help narrow the gap between the total cost of their projects and their allotted budget. So, while they believe the multiplier approach should continue, applicants believed an increase of the rate is necessary to reduce the out-of-pocket costs associated with their Cat 2 projects.

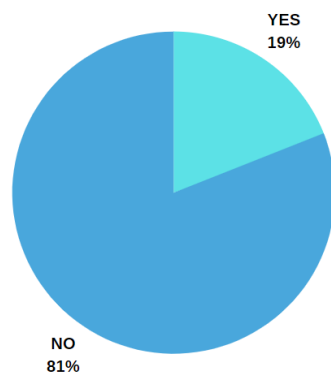
For instance, if an applicant has a pre-discount budget of \$1,000,000 but a total project cost of \$1,500,000, once you apply a discount percent of 80%, the out of pocket expense is \$700,000.

As one district commented, “Our budget only allowed for updated WIFI. We did not have enough funds to update our wired data points nor did we have sufficient funds for basic maintenance of the equipment. In the end we had to fund that ourselves. The budget should be close to \$250 per student.” Another district added, “The multiplier should be set at \$400 per student for the range 0 - 60, which would allow for a floor of approximately \$24,000 instead of the current approximate \$9,000 floor for small schools. Then starting with the 61st student, a pre-inflation multiplier of \$200 per student which will allow schools to complete more category

2 projects.” One school official stated, “*I believe an increase to \$200-250 flat rate with no inflation cost would be a good place for next 5 year budget cycle.*”

We agree with these applicants and other commenters⁴ that an increase to the multiplier should be made for the next budget cycle, especially for rural entities and those who receive the funding floor. Rural entities are subjected to higher installation costs as compared to those in more competitive and urbanized areas but the two entity types receive the same multiplier rate. We believe the Bureau should consider the different needs of certain types of applicants and provide further flexibility in the permanent Category Two budget process.

3. Did your entity spend its entire five-year budget?



Based on our many discussions with Florida applicants over the last five years, we were surprised that such a large majority of respondents did not spend their entire budget. Time and time again, applicants stated the budget was not enough, especially for rural entities and those who receive the funding floor. However, our concern is that the Bureau would look at these raw statistics and previous funding data and use this to maintain the current multiplier rates. The

⁴ See SECA, West Virginia Department of Education, and Pennsylvania Department of Education initial comments

Bureau made note that the Budget multiplier was sufficient in their *Category Two Budget Report* released February 2019⁵ and again in the Category Two NPRM.⁶

If the sufficiency of the current multiplier rates/budgets is the issue, then we must ask, “Why aren’t applicants using their entire budget?” Using the 75% figure provided in the Category Two Report, if Florida as a whole requested \$255,904,138.75 in funding over the first five-year period, this would mean nearly \$64 million dollars in funding went unused. Even using the higher 90% figure, \$26 million in funding went unused. With applicants desperately needing to upgrade their facilities to meet the ever-increasing technology demands, the question is why are applicants leaving funding unrequested? If the funding is available and the demand is high, there must be reasons why applicants would fail to spend their entire budget.

To help provide further context, we asked applicants to explain why they did or did not use all of their budget.

One library official stated, “*We based our project around our Category Two budget. If the budget had been larger, particularly for some of my smallest square footage locations, we would have definitely expanded the project and had a better finished product.*” A school official clarified, “*We focused on what we judged as essential to operate with the 2015- 2019 budget since there was uncertainty about stability to the programs and what would happen in 2020.*”

A district added, “*Yes, the total budget for our schools was over \$5 million; however, the projects that we wanted to complete in this cycle were in the \$2 to \$3 million range.*”

⁵ See *Category Two Budget Report, February 2019, paragraph 26 and 27* “Overall, schools use their budgets at a high rate. Approximately 42,000 schools have used more than 75% of their category two budgets, and 30,000 have used more than 90%. An additional 16,000 schools have used between 50 and 75% of their budgets. Approximately 25,000 schools have not received or requested a category two funding commitment through FY2018, and thus have 100% of their budgets remaining. Libraries do not appear to use their category two budgets to the same degree as schools. Just over 1,000 libraries have used more than 75% of their budgets. An additional 900 libraries have used between 50 and 75%. By contrast, over 7,000 libraries have not received or requested a category two funding commitment, and thus have 100% of their budgets remaining.”

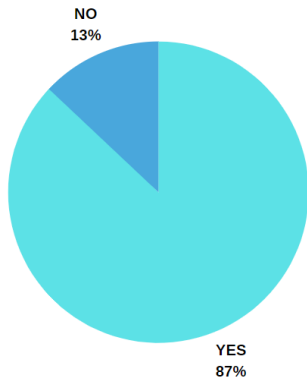
⁶ See *FCC-19-58A1 para 19* “the Bureau found that the category two budget approach appears to be sufficient for most schools and libraries with approximately half of schools and most libraries having used less than half of their allocated five-year budget and a supermajority of schools and libraries having used less than 90% of their budgets”

Unfortunately, some of the schools that we had planned to do some internal connections upgrades, had small student enrollment numbers and did not have enough budget left to allow us to proceed with E-rate funding for those sites. Therefore, we opted to just put in for the schools with sufficient budget left. If the Cat 2 budget would have been established at the district level, we believe we could have completed the total project.”

One district didn’t use their budget because they, *“were accustomed to not getting Cat 2 money we had just finished a major retrofit just prior to the release of our being able to use Cat 2 funds.”* They will fully utilize their budget during the next five-year cycle. Another official stated they did not use their entire budget because the process for applying and tracking Category Two applications was *“too burdensome”* and *“not worth the effort.”*

Network infrastructure needs of applicants increase exponentially year to year and Category Two, which has a one-billion-dollar annual budget, should anticipate these needs by increasing the multiplier rate to at least \$200 per student for Urban schools and \$250 for rural. It was made clear in the NPRM and Category Two Report that the Bureau is assuming a multiplier rate established five years ago during a pilot program would be sufficient for the next five years. This would essentially make the original budget multiplier a 10-year rate. We believe this line of thinking is short sided. The budget multiplier should be forward thinking and anticipate the needs of applicants. Our hope is these statements will help the Bureau see that applicants using only a portion of their budget is not a good enough reason to keep the multiplier at its current rate.

4. Are you in favor of the FCC moving to a District/Library wide budget?



It was no surprise that a vast majority of respondents were in favor of moving to a district wide budget approach. Much of the frustrating complexities involved in applying for Category Two funding begins with the by entity budget process. We agree with the State E-rate Coordinator Association (SECA) initial comments⁷ that, “accounting for category 2 budgets is one of the most complex areas of the E-rate program” and again “This entire process of having to allocate partial costs of equipment per building for either site specific equipment or shared equipment would be eliminated by adopting a district-wide and library system-wide basis of administering the category 2 budget.”

We’ve heard time and time again from Florida applicants that the burden of applying for Category Two funding by entity is the primary reason applicants either did not use their entire budget or decided not to apply at all.⁸ Indeed, Miami Dade County Schools, one of the largest school districts in the entire country, has only received roughly \$2 million in funding out of their \$42 million budget. Are we to assume a district with 356 schools would set aside \$40 million dollars in funding, if it wasn’t for extenuating circumstances? Two other school districts found themselves in similar situations. Orange County Schools, with a budget of nearly \$28 million, only applied for \$10 million in funding, and Santa Rosa School District, budget of \$4 million,

⁷ See section three of joint initial comments filed by SECA and SHLB filed 8.16.19

⁸ See comments filed by Florida E-rate Team in response to Cat 2 Public Notice para 2 “District Wide Budget”

received no Category Two funding. Both confirmed it was the strenuous process for applying for Category Two funding that ultimately led to the decision to leave funding unrequested and that a district wide budget would have alleviated their concerns.

Applying for E-rate funding should not be so burdensome that applicants are forced to weigh the financial benefits of their E-rate funding against the burdens associated with the filing process. For most applicants, especially consortiums, large school districts, and library systems, accurately tracking their budget year over year is nearly impossible. Each year they must update their total student counts/square footage, know the current year inflation rate (which is not always known during the application window), what was applied for in previous years compared to what was committed, the amounts disbursed for each year, and any adjustments made in a post commitment form. Their frustration is exacerbated if USAC reviewers have not yet approved previous years' FRNs or a Form 500 has not yet been approved. Further complicating the process and adding to their frustrations is the possibility that the applicant miscalculates their available budget. If the applicant miscalculates even by the smallest of margins, they are subjected to lengthy reviews and costly denials. These are not entities who are trying to defraud the Federal Government. They are simply struggling to navigate a process that has neither been simplified nor adequately modernized.

While moving to a district wide or library system wide budget will not solve every problem with applying for Category Two funding, it would nearly eliminate the need to track part time student counts, issues surrounding the mixed eligibility of equipment for NIFs and schools/libraries, line item by line item budget adjustments in PIA, potentially thousands of post commitment forms, certain equipment transfer rules, and many other administrative processes.

We also understand the FCC is concerned that a district wide budget could possibly open the door for waste, fraud, and abuse or that dishonest district/library administrators would not evenly distribute funds to all their entities. However, while this is a legitimate concern, we

do not see how the current entity by entity process prevents this from occurring. There is also no evidence to support such a concern. The current Cat 2 rules state applicants cannot share budgets among entities and must allocate funds by entity, but applicants can still choose to not spend any of an entity's budget. Some districts may use state funding sources⁹ to pay for certain school upgrades and choose to use E-rate funds for others, and the Bureau would have no knowledge of which funding source an applicant used or if an entity even needed an update to begin with. Unless the Bureau initiates an "all or nothing" approach where it forces applicants to spend all the budget for every entity or none at all, which is not something anyone would recommend, then neither an entity by entity nor a district wide approach would prevent this from happening. This situation brings to mind a well-known quote about fear,

"Never be afraid to try something new.
Remember, amateurs built the ark, professionals built the Titanic."

When it comes to simplifying the program, we should not allow a fear of an unknown prevent us from improving a process that would benefit nearly every E-rate applicant. The Bureau should also rely on the well-established audit and review process to seek out waste, fraud, and abuse and then punish those offenders appropriately.

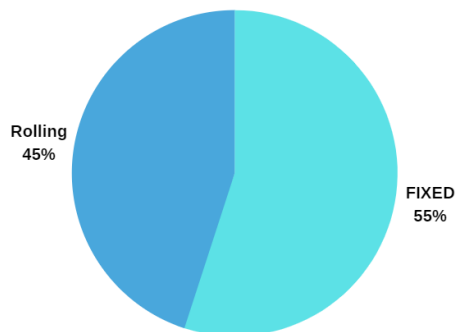
We agree with the State of New Mexico¹⁰ that the issue with charter schools who fall under the authority of a school district but are required to file their own E-rate forms, is an EPC issue and not a Category Two issue. We urge the Bureau to rethink their stance on these charter schools and allow them to be reclassified as independent schools in EPC. The decision on whether a school is to stay under a district's entity profile list should be left up to the individual

⁹ Digital Classrooms Program (DCP) Plans & Allocation. Section 1001.20, Florida Statutes, requires the Florida Department of Education to develop a five-year strategic plan for assisting districts in establishing Florida Digital Classrooms.

¹⁰ See initial comments filed by the State of New Mexico Public School Capital Outlay Council page 8

districts and charter schools. If the two parties agree be split for E-rate purposes, as they've always been, then the E-rate process should reflect this agreement.

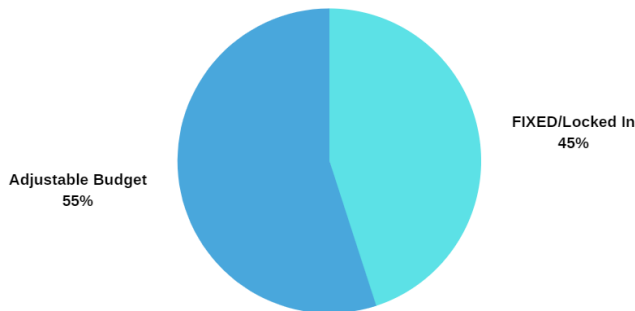
- 5. Are you in favor of the FCC moving to a fixed five-year budget where all applicants have the same five-year period starting in 2020 and ending 2024 or a rolling budget where each applicant's budget begins the first year they are funded (like the current rules state)?**



Most proponents of the fixed budget approach felt that a standardized process, where all applicants have the same five-year budget cycle refreshing every five years, would be the simplest and most efficient process for USAC to administer. The feeling is that standardization would reduce confusion. We strongly agree and believe any changes in the Category Two Budget process must begin and end with the goal of increasing efficiency. By moving to district wide budget and a fixed budget approach, applicants will be able to plan their projects with confidence. An additional benefit is that USAC's Cat 2 budget tools will more accurately reflect applicant's remaining budgets.

We also agree with other commenters that a restart of all budgets in 2020 would further simplify the process and that all applicants starting with the same five-year period, with no roll over budget amounts, seems to be the cleanest transition.

6. Would you be in favor of a fixed or "locked in" budget approach where the budget does not increase or decrease over the five-years or would you prefer your budget to adjust over the five-year period?



To go along with the district wide budget and fixed 5-year budget time frame, respondents agreed a fixed or “locked in” process, where a budget would not have to change year to year, would increase efficiency and confidence. As mentioned before, since year two of the pilot program, applicants have struggled to know their available budget, and this was largely due to the inflation rate and having to factor in any increased or decreased student population. Again, let’s allow standardization to reduce confusion.

However, we believe applicants should be allowed to increase their budget if the need arises. As the Pennsylvania Department of Education noted¹¹, *“The reality is that occasionally schools have enrollments that increase significantly due to school mergers and restructurings, or a sudden in influx of students from other schools resulting from a natural disaster or other similar situation. Likewise, NSLP eligibility also can change due to factory closings, local or nationwide economic downturns, etc. In these specific situations, schools and libraries should be permitted to “recertify” their information with USAC in order to claim a higher discount or*

¹¹ See initial comments filed by Pennsylvania Department of Education, page 9

higher Category 2 budget. We recommend that the term “significantly” be defined at a 10% or greater increase in enrollment or NSLP eligibility.”

Along with an increased multiplier of at least \$200 for urban entities and \$250 for rural entities, we agree with other commenters that the inflation should be front loaded at the beginning of the new five-year cycle. Adjusting for inflation is important but the information is typically not released in time for applicants to accurately factor in the rate to their funding requests. Many times, they are forced to use estimated rates or base current year funding requests off the previous year’s multiplier. This is silly. Standardize the process and remove all guess work.

7. What new technology should be included under Category Two?

To further simplify the entire E-rate process, Internal Connections, Basic Maintenance, and Management of Internal Broadband Services should be consolidated. This would eliminate FCC Form 470 and 471 mismatches where the cost of a license on a 471 included BMIC but the maintenance was not “included” on the 470. Also, many applicants do not understand the nuanced difference between products that require licensing or which components include a license cost. This would also eliminate the mixed eligibility rules and allow the full cost of a license to be eligible.

Our respondents made it abundantly clear that the eligibility of security systems is one of their primary concerns. Applicants understand that end user equipment will remain ineligible, but the eligibility of drops and switches that connect those devices to the network has been called into question the last few years. There is considerable confusion on which drops are eligible or ineligible. We ask the Bureau to treat security devices like other end-user equipment; allow all drops to remain eligible, regardless of what is plugged into it. This would further eliminate confusing mixed eligibility rules.

Respondents also asked that the Bureau remove the conditions on what type of equipment may be plugged into an Uninterruptable Power Supply (UPS). Currently only eligible equipment may be plugged into a UPS but again this has created unintentional confusion.

Example: A UPS has eight ports. Applicants use the UPS to support several switches and other eligible equipment. The applicant plugs an air conditioning unit into one port to help lower the temperature in the room.

In this example, the applicant would need to cost allocate 1/8th of the cost of the UPS or find a tangible number to cost allocate from the FRN line-item. Again, this is silly and an overly burdensome requirement. We agree with the State of West Virginia¹² that, much like with VoIP equipment, this adjustment “won’t harm the fund as schools are already limited by their per-pupil budget.”

There was also a large demand for adding filtering hardware and services to the eligible service list. This seems like a no brainer. If applicants must filter content to remain eligible for E-rate Category One internet access funding, the device or service to filter that content should also be eligible. Imagine allowing the internet access to be eligible but not the router or switch used to distribute the service to eligible entities. For this reason, the purchasing of the device should be eligible for Category Two and the monthly cost should be treated like the cost of a basic firewall service¹³.

Likewise, Distributed Denial-of-Service attack (DDoS) protection should be included as eligible for E-rate funding. In FY2019, Florida applicants requested \$35,378,881 in E-rate funding just for internet access, yet the service that protects those connections is not eligible.

¹² See initial comments filed by State of West Virginia Department of Education page 6

¹³ See cost allocation requirements <https://www.usac.org/sl/applicants/beforeyoubegin/eligible-services/cost-allocations.aspx>

One district reported that a student for less than \$100 was able to effectively “shutdown” the entire network using a denial of service attack. Certainly, with so much on line, districts should be able to decide which services they will competitively bid to protect their networks. Again, this “won’t harm the fund as schools are already limited by their per-pupil budget.”

Applicants have long expressed the desire in funding for DHCP and DNS servers. As one respondent put it, *“wireless access points and caching are included, but without DHCP and DNS servers, maintaining the network infrastructure becomes impractical.”* Statements like this bring to mind comments made by now FCC Chair Ajit Pai in his dissenting remarks made in the Second E-rate Modernization¹⁴. *“We cannot assess the relative value of web hosting or caching servers or a larger broadband pipe to a school’s academic achievement... every school and every library has its own unique needs, its own budget constraints, its own infrastructure with its own lifecycle...”*

DHCP and DNS servers work together to significantly increase network performance by eliminating administrative overhead for manual IP management and allowing webhost name translation. Depending on the scale and infrastructure needs of a network, this functionality can be crucial. The decision to fund caching servers but keep DHCP and DNS servers ineligible seems arbitrary. The FCC’s reasoning for funding caching is because this functionality can *“optimize network performance, and potentially result in more efficient use of E-rate funding. The record indicates that caching functionality can be an integral component of some LANs and WLANs.”* If the goal is to fund functionality that significantly increases network performance, then funding DHCP and DNS servers would be consistent with this ideology.

Lastly, respondents asked for a simplification of license and warranty coverage for eligible hardware. Category Two budgets are five years, the industry standard life expectancy

¹⁴ Re: Modernizing the E-Rate Program for Schools and Libraries, WC Docket No. 13-184, page 9039

for equipment is five years, and the transfer rules are good for five years, yet warranties are only eligible for up to three years. At risk of sounding redundant, it must be said that this is another silly feature of E-rate. Standardize the process and allow warranties to cover the full five years of the budget.

Conclusion

Based on the survey data and experience of the Florida State E-rate Coordinators, we strongly suggest that the Bureau consider and adopt an Order that reflects the suggestions made in these reply comments. The Florida E-rate Team appreciates the opportunity to submit our reply comments in this important proceeding and looks forward to further participation and discussion with the Commission.

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